

**EXECUTIVE OFFICE OF THE PRESIDENT  
OFFICE OF MANAGEMENT AND BUDGET  
WASHINGTON, DC 20503**

**May 29, 2003  
(including technical correction made by OMB Memorandum M-03-20)**

**CIRCULAR NO. A-76 (REVISED)**

**TO THE HEADS OF EXECUTIVE DEPARTMENTS AND ESTABLISHMENTS**

**SUBJECT: Performance of Commercial Activities**

- 1. Purpose.** This circular establishes federal policy for the competition of commercial activities.
- 2. Supersession.** This circular supersedes Office of Management and Budget (OMB) Circular No. A-76 (Revised 1999), August 4, 1983; Circular No. A-76 Revised Supplemental Handbook (Revised 2000), March 1996; Office of Federal Procurement Policy Letter 92-1, "Inherently Governmental Functions," September 23, 1992; and OMB Transmittal Memoranda 1 through 25, Performance of Commercial Activities.
- 3. Authority.** Reorganization Plan No. 2 of 1970 (31 U.S.C. § 1111); Executive Order 11541; the Office of Federal Procurement Policy Act (41 U.S.C. § 405); and the Federal Activities Inventory Reform (FAIR) Act of 1998 (31 U.S.C. § 501 note).
- 4. Policy.** The longstanding policy of the federal government has been to rely on the private sector for needed commercial services. To ensure that the American people receive maximum value for their tax dollars, commercial activities should be subject to the forces of competition. In accordance with this circular, including Attachments A-D, agencies shall:
  - a.** Identify all activities performed by government personnel as either commercial or inherently governmental.
  - b.** Perform inherently governmental activities with government personnel.
  - c.** Use a streamlined or standard competition to determine if government personnel should perform a commercial activity.
  - d.** Apply the Federal Acquisition Regulation (FAR), 48 C.F.R. Chapter 1, in conjunction with this circular, for streamlined and standard competitions.
  - e.** Comply with procurement integrity, ethics, and standards of conduct rules, including the restrictions of 18 U.S.C. § 208, when performing streamlined and standard competitions.
  - f.** Designate, in writing, an assistant secretary or equivalent level official with responsibility for implementing this circular, hereafter referred to as the competitive sourcing official (CSO). Except as otherwise provided by this circular, the CSO may delegate, in writing, specified responsibilities to senior-level officials in the agency or agency components.

- g. Require full accountability of agency officials designated to implement and comply with this circular by establishing performance standards in annual performance evaluations.
- h. Centralize oversight responsibility to facilitate fairness in streamlined and standard competitions and promote trust in the process. Agencies shall allocate resources to effectively apply a clear, transparent, and consistent competition process based on lessons learned and best practices. Lessons learned and best practices resulting from a streamlined or standard competition process shall be posted on SHARE A-76!
- i. Develop government cost estimates for standard and streamlined competitions in accordance with Attachment C using the COMPARE costing software. Agencies shall not use agency budgetary estimates to develop government cost estimates in a streamlined or standard competition.
- j. Track execution of streamlined and standard competitions in accordance with Attachment B.
- k. Assist adversely affected federal employees in accordance with 5 C.F.R. Parts 330 and 351. The statutory veterans' preference for appointment and retention (5 U.S.C. §§ 1302, 3301, 3302, 3502) applies to actions taken pursuant to this circular.
- l. Not perform work as a contractor or subcontractor to the private sector, unless specific statutory authority exists or the CSO receives prior written OMB approval.

## 5. Scope.

- a. Except as otherwise provided by law, this circular shall apply to executive departments named in 5 U.S.C. § 101 and independent establishments as defined in 5 U.S.C. § 104. These departments and independent establishments are referred to in this circular as “agencies”. Except as otherwise provided by law, this circular shall apply to military departments named in 5 U.S.C. § 102.
- b. As provided by Attachment A, the CSO may exempt a commercial activity performed by government personnel from performance by the private sector.
- c. The CSO (without delegation) shall receive prior written OMB approval to deviate from this circular (e.g., time limit extensions, procedural deviations, or costing variations for a specific streamlined or standard competition, or inventory process deviations). Agencies shall include any OMB approved deviations in the public announcement and solicitation for a streamlined or standard competition. Agencies are encouraged to use this deviation procedure to explore innovative alternatives to standard or streamlined competitions, including public-private partnerships, public-public partnerships, and high performing organizations.
- d. A streamlined or standard competition is not required for private sector performance of a new requirement, private sector performance of a segregable expansion to an existing commercial activity performed by government personnel, or continued private sector performance of a commercial activity. Before government personnel may perform a new requirement, an expansion to an existing commercial activity, or an activity performed by the private sector, a streamlined or standard competition shall be used to determine whether government personnel should perform the commercial activity.
- e. The CSO shall identify savings resulting from completed streamlined and standard competitions in accordance with OMB Circular No. A-11, *Preparation, Submission, and Execution of the Budget*.

- f. This circular shall not be construed to alter any law, executive order, rule, regulation, treaty, or international agreement.
  - g. Noncompliance with this circular shall not be interpreted to create a substantive or procedural basis to challenge agency action or inaction, except as stated in Attachments A and B.
  - h. The Department of Defense CSO (without delegation) shall determine if this circular applies to the Department of Defense during times of a declared war or military mobilization.
6. **Effective Date.** This circular is effective upon publication in the *Federal Register* and shall apply to inventories required, and streamlined and standard competitions initiated, after the effective date.
7. **Transition.** Agencies shall apply the following transition procedures to direct conversions and cost comparisons, including streamlined cost comparisons, initiated but not completed by the effective date of this circular.
- a. Agencies shall convert initiated streamlined cost comparisons and direct conversions to streamlined or standard competitions under this revised circular.
  - b. Agencies shall convert initiated cost comparisons for which solicitations have not been issued prior to the effective date to standard competitions under this revised circular or, at the agency's discretion if permitted by this revised circular, to streamlined competitions.
  - c. The circular in effect prior to this revision shall govern cost comparisons for which solicitations have been issued, unless agencies, at their discretion, convert such cost comparisons to standard competitions under this revised circular, or, if permitted by this revised circular, to streamlined competitions.
  - d. In applying transition procedures, agencies shall not combine the requirements of this revised circular with those in the prior circular.
  - e. When complying with the transition procedures required by this paragraph, agencies shall make a public announcement within 30 days after the effective date of this revised circular pursuant to this transition paragraph. For conversions made at an agency's discretion, agencies shall make public announcement on the date the agency's decision takes effect.

8. **Attachments.**

- Attachment A -- **Inventory Process**
- Attachment B -- **Public-Private Competition**
- Attachment C -- **Calculating Public-Private Competition Costs**
- Attachment D -- **Acronyms and Definitions**

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